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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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10 DELORES JOHNSON,

CASE NO. CV-F-008-0081 LJO SMS

11 Plaintiff,

**ORDER ON PARTIES' REQUESTS TO FILE
BRIEFS**

12 vs.
13

14 P MORGAN CHASE BANK DBA
CHASE MANHATTAN, et al,

15 Defendants.
16 _____/

17 On December 3, 2008, defendant Chase Bank USA, N.A. ("Chase") filed a motion for summary
18 judgment. On January 2, 2009, plaintiff Delores Johnson ("Ms. Johnson") filed a timely opposition.
19 In her opposition, Ms. Johnson, inter alia, argued that Chase's motion was premature. Pursuant to Fed.
20 R. Civ. P. 56(f), Ms. Johnson requested this Court to continue the motion briefing schedule and hearing
21 date to allow her to finish her detailed discovery plan as to Chase. On January 9, 2009, this Court
22 continued by 60 days the summary judgment briefing schedule and hearing date.

23 On January 12, 2009, Chase filed an ex parte application for leave to file an opposition to this
24 Court's January 9, 2009 order. Chase included in its ex parte application a memorandum of points and
25 authorities to oppose a continuance of this motion. Specifically, Chase argues that Ms. Johnson's
26 declaration in support of the Fed. R. Civ. 56(f) continuance was insufficient, because it fails to
27 demonstrate: (1) what specific facts would be discovered; (2) how such facts would defeat the current
28 summary judgment motion; and (3) why Ms. Johnson was not completed earlier.

1 Also on January 12, 2009, Ms. Johnson filed a request for an opportunity to file a brief in
2 response to Chase's ex parte application.

3 Having considered the parties' requests, including Chase's ex parte application and documents
4 filed in support thereof, and Ms. Johnson's request, this Court:

- 5 1. GRANTS Chase leave to file an opposition to this Court's January 9, 2009 order. This
6 Court construes Chase's opposition as a motion for reconsideration and will consider the
7 opposition under the applicable reconsideration standard of review;
- 8 2. GRANTS Ms. Johnson's request to file a response brief;
- 9 3. ORDERS Ms. Johnson to file and serve her response brief no later than January 16, 2009
10 at 4:00 p.m. Ms. Johnson shall address the issues raised by Chase, including, but not
11 limited to: (a) what specific facts Ms. Johnson anticipates will be discovered through
12 further discovery; and (b) how such facts would defeat the current summary judgment
13 motion (including Chase's argument that Ms. Johnson's claims are barred by the statute
14 of limitations).

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16 Upon receipt and review of the further documents herein ordered, this Court will deem this matter
17 submitted on the pleadings unless this Court determines that additional briefing, or a hearing, is
18 necessary.

19
20 IT IS SO ORDERED.

21 **Dated: January 13, 2009**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE